Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305, titled Medical Dispute Resolution-General, and 133.307, titled Medical Dispute Resolution of a Medical Fee Dispute, a review was conducted by the Division regarding a medical fee dispute between the requestor and the respondent named above. This dispute was received on 07/12/2002.

I. DISPUTE

Whether there should be additional reimbursement for Ambulatory Surgical Center care for 12/04/2001.

II. RATIONALE

The requestor submitted an EOB with the denial code of "M-In Texas, Outpatient are to be paid as fair and reasonable." Ambulatory Surgical Center care is not covered by the *Medical Fee Guideline* and shall be reimbursed at a fair and reasonable rate.

The respondent asserts in their position statement that they have paid a fair and reasonable reimbursement based on inpatient hospital stay and Medicare based payments. However, other than SOAH decisions, no evidence of other payment samples including Medicare was not provided to support a fair and reasonable payment per §413.011. The carrier's payment equals the ACIHFG's per diem which is inconsistent with rule 134.401(a)(4), which states no applicability to ASC or outpatient charges. Documentation submitted by ___ does not support that the charges are for similar treatment in the same geographical area to an injured individual of an equivalent standard of living.

The requestor billed $10,302.83 for the Ambulatory Surgical Center care; the respondent paid $1,118.03 leaving a balance of $9,184.83. Rule 133.307(g)(3)(D) requires the requestor to discuss, demonstrate, and justify that the payment amount being sought is fair and reasonable.

The requestor submitted redacted EOBs that indicate that they have accepted reimbursements for similar treatment in the same geographical area to an injured individual of an equivalent standard of living, from 80% to 100% of their billed charges. In addition, their position statement indicates payment received from a compilation of other payer's shows an 80% average reimbursement received. On this basis, the requestor proved insurance carrier payment was not fair and reasonable and reimbursement is recommended at 80% of billed charges less the amount paid. (80% of $10,302.83 = $8,242.26-$1,118.00 already paid = $7,124.26 for additional reimbursement).

Therefore, additional reimbursement is recommended.

III. DECISION & ORDER

Based upon the review of the disputed healthcare services within this request, the Division has determined that the requestor **is** entitled to additional reimbursement for Ambulatory Surgical Care in the amount of **$7,124.26.** Pursuant to Sections 402.042, 413.016, 413.031, and 413.019 the Division hereby ORDERS the Respondent to remit **$7,124.26** plus all accrued interest due at the time of payment to the Requestor within 20 days receipt of this Order.

The above Decision and Order are hereby issued this 16th day of September 2003.

Michael Bucklin
Medical Dispute Resolution Officer
Medical Review Division

MB/mb

Roy Lewis, Supervisor
Medical Dispute Resolution
Medical Review Division

RL/mb